

Service Date: July 23, 1976

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

IN THE MATTER of Glacier Park, Inc.,	)	
Complainant, vs Mountain States	)	Docket No. 6344
Telephone and Telegraph Company	)	
(Mountain Dell), a corporation,	)	Order No. 4273
Respondent.	)	

APPEARANCES

For the Complainant:

A. W. Scribner  
Scribner and Huss  
107 Seventh Avenue  
Helena, Montana 59601

For the Respondent:

George T. Bennett  
Hughes, Bennett and Cain  
406 Fuller Avenue  
Helena, Montana 59601

For the Commission:

Charles H. Dickman  
Montana Public Service Commission  
1227 Eleventh Avenue  
Helena, Montana 59601

The complaint herein was filed in letter form by Glacier Park, Inc., a corporation, alleging that Mountain Bell's nine-month minimum charge required under the Local Exchange Tariff with respect to the three exchanges in Glacier Park is excessive, unreasonable and discriminatory.

The complaint came on regularly for hearing at the Commission offices at 10:00 a.m. on the 24th day of February, 1976, and continued in hearing with recesses and adjournments until 5:00 p.m. on the 25th day of February, 1976. In attendance throughout the entire hearing were Chairman Gordon E. Bollinger, Commissioner P. J. Gilfeather and Commissioner James R. Shea.

From the evidence contained in the record, the written arguments and briefs, the Commission made the following Findings of Fact, Conclusions and Order:

#### EVIDENTIARY RULINGS

1. Any objection to evidence or motions not previously ruled upon are hereby denied.

#### FINDINGS OF FACT

1. The Mountain States Telephone and Telegraph Company, a Colorado corporation (Respondent) is a public utility within the meaning of Montana law and a corporation providing telephonic services and facilities throughout the State of Montana, and as such is under the jurisdiction of this Commission.

2. That Glacier Park, Inc., is a private corporation organized for profit, owned and controlled principally by Mr. Don Hummel and his family, and is a telephone subscriber in the three exchanges serving Glacier Park; and said corporation will hereafter be referred to as "Complainant."

3. That Complainant has requested that this Commission amend or revise the Local Exchange Tariff as it applies to the three exchanges in Glacier Park so that the Telephone Company can no longer charge a nine-month minimum with regard to local exchange service in said three exchanges but only a one-month minimum with respect thereto.

4. That Mr. Phillip R. Iversen, Superintendent of Glacier National Park, has intervened in this action, has submitted a letter and has testified in support of the position of the Complainant, and has also requested this Commission to revise said Local Exchange tariff to remove the nine-month minimum provision and substitute a one-month minimum provision therefor.

5. That Mr. Dan Lundgren, a partner in the West Glacier Mercantile, has intervened in support of the position of the Complainant and testified at the hearing in this matter. In addition, his brother and partner, E. M. Lundgren, has submitted a letter of support for the position of the Complainant (Exhibit No. 9).

6. That Mr. Hugh Black has submitted a letter to this Commission in support of the position of the Complainant.

7. That the current Local Exchange Tariff provides, in pertinent part:

“All exchange service at Cooke City, East Glacier Park, St. Mary and West Glacier is subject to a minimum contract period of nine months, except where a longer period is specified in the General Exchange Tariff.”

The Complainant, as stated, contends that the nine-month minimum contract period is discriminatory the Respondent Telephone Company has asked this Commission to interpret said tariff provision as requiring a nine-month minimum payment per calendar year.

8. The three exchanges in question are East Glacier Park, St. Mary and West Glacier. These three exchanges and the exchange boundaries thereof were created by the then Board of Railroad Commissioners of the State of Montana, ex officio the Public Service Commission of Montana, by appropriate action on the 26th day of April, 1956, and the Respondent Telephone Company began operation of said exchanges on the 6th day of May, 1956. The West Glacier exchange lies entirely within the boundary of Glacier Park. The East

Glacier exchange lies principally within the boundary of Glacier Park, and the St. Mary exchange has approximately one-half of its area within Glacier Park and the other one-half extends north to the Canadian border. All three exchanges serve principally tourist areas which are open primarily in the months of June, July and August.

9. While the number of stations in service varies, on December 31, 1975, the East Glacier exchange had some 478 stations in service; the St. Mary exchange had 415 stations in service; and the West Glacier exchange had 506 stations in service. Of these stations, the Complainant controlled approximately fifty percent thereof, the National Park Service controlled some twelve percent thereof, and Hugh Black of St. Mary Enterprises, Inc., controlled about five percent thereof.

10. That the peak demand for telephone service in the three exchanges in question is during the months of June, July and August. That limited demand for telephone service exists during the months of May and September when preparation is being made to open Glacier Park. That during the months of October through April there is only a minimal demand for telephone service in the three exchanges for telephones to permanent residents, night watchmen, engineers and caretakers guarding and protecting the motels, hotels and other tourist-oriented facilities within the Park.

11. Mr. Don Hummel, the President of Complainant corporation, testified that it was essential to his operations to have engineers, watchmen and other caretakers provided with telephone service off-season to protect his facilities from weather, vandalism, fire, theft and other potential causes of loss.

12. That prior to May 6, 1956, the telephone system providing service in and around Glacier Park was owned and operated by the National Park Service of the Department of the Interior of the United States as a private system. In 1954 the National Park Service became committed to the policy of getting out of the communication business as rapidly as possible and thereafter solicited a service proposal from Respondent whereby Respondent would take over the telephone system in and around Glacier Park and thereafter provide telephone service (Exhibit

B).

13. That by service proposal dated May 3, 1954, the Respondent Mountain Bell offered to provide service in and around Glacier Park to three exchanges. As to the private line service, said service proposal stated:

“It is expected, therefore, that the Government will guarantee to pay to the Telephone Company the monthly charges applicable to such facilities as provided on a twelve months’ per year basis for a period of ten years.” (Exhibit C)

As to local exchange telephone service, the rates as set forth in the service proposal were quoted as being subject to the following provision:

“The above rates are based on existing rate schedules and are subject to a minimum charge equal to nine months’ service charges per calendar year.” (Exhibit C)

14. That the National Park Service of the Department of Interior of the United States accepted the service proposal of the telephone company, and stated:

“It is understood that the full period channels and the 740E private branch exchanges shall be retained for a period of twelve months each year for a ten year period. It is also understood that private branch exchange stations and other local facilities shall be subject to a minimum service charge equal to nine months of each year.” (Exhibit A)

15. That at the request of the National Park Service of the Department of the Interior of the United States (Exhibit D), a similar service offer was made to Glacier Park Company, a wholly owned subsidiary of the Great Northern Railroad Company (Exhibit E). As to the private line system, the proposal so made to the Glacier Park Company was made subject to the following condition:

“For the private line channel service your company guarantees to pay on a twelve month per year basis for a period of ten years subject to the conditions contained in our letter dated June 23, 1954.”

And, as to local exchange service, stated that service was being offered subject to the following condition:

“Charges for both these systems are subject to a minimum rate equal to nine months’ service charge per calendar year.” (Exhibit E)

16. Exhibit F shows that at meetings held in the spring of 1954 between representatives of the telephone company and the Glacier Park Company that the matter of the nine-month minimum was considered by the parties and that such exhibit in part states:

“Rates quoted under ‘The Hotel System’ are filed with the Montana Railroad and Public Service Commission. They will be filed on a nine-months minimum basis as it apparently would not be policy to up the rate and file on a three-month basis. The monthly rates for this service will come under Group No. 1 and be the same as for other Montana exchanges of similar size.” (Exhibit F)

17. The service proposal made by the Respondent telephone company was accepted by both the Glacier Park Company and the National Park Service of the Department of the Interior of the United States (Exhibits A and H). Subsequently, the Board of Railroad Commissioners of the State of Montana, ex officio the Public Service Commission of Montana, by appropriate action on April 26, 1956, created the three exchanges serving Glacier Park, viz., West Glacier, East Glacier and St. Mary, provided for the exchange boundaries and the rates therein, and specifically provided the following language:

“All exchange service is subject to a minimum contract period of nine months except where a longer period is specified in the general exchange

tariff.” (Exhibit I and original local exchange tariffs filed with this Commission, April 23, 1956, effective May 6, 1956)

18. That before the Respondent telephone company petitioned the board of Railroad Commissioners of the State of Montana, ex officio the Public Service Commission of Montana, for permission to provide telephone service to Glacier Park, telephone company employees canvassed potential subscribers other than the National Park Service and the Glacier Park Company, and informed such potential subscribers of the rates that would be charged and particularly of the nine-month minimum contract period requirement.

19. That preparatory to providing telephone service to Glacier Park, the Respondent telephone company purchased the system of the National Park Service for \$95,600, certain equipment and facilities of the Indian Service constituting a pole line and other fixtures for \$19,300, and the internal system of the Glacier Park Company for \$6,300. That the total local exchange investment of the Respondent telephone company, exclusive of station equipment and PBX's, is estimated at \$416,000 preparatory to initiating service on May 6, 1956. The total investment in local exchange, plant equipment and facilities on December 31, 1975, was \$915,579. The total local service revenues for the same period, calendar year 1975, were \$66,539.60. (Exhibits N and Y)

20. That no other exchanges within the Mountain Bell system in Montana are known to be subject to seasonal fluctuation and demand to such a degree as the Glacier Park, Cooke City and the four exchanges serving Gardiner, Red Lodge, Virginia City and West Yellowstone.

21. That the central offices, central office equipment, switching equipment, trunking equipment and other plant and facilities providing local exchange services to the three exchanges in Glacier Park are comparable in quality, age and service to the equipment serving other exchanges of similar size through-out the Mountain Bell system in Montana. That the Respondent telephone company must maintain all of such facilities on a twelve-month basis in each of the three exchanges serving Glacier Park. Testimony was introduced to the effect that decreased demand for telephone service as to such exchanges would not decrease the carrying

charges with respect thereto or the maintenance and repair expenses relative thereto.

22. That Glacier Park is a remote, mountainous area open to and used by the public only during the summer months and that telephone service provided to the area will continue to be subject to such factors.

23. That the Complainant filed a complaint with regard to the nine-month minimum requirement in 1969 with the Public Service Commission as then constituted, which Commission found and determined “that the nine month minimum provision of the Glacier Park Exchanges’ tariff is a fair and equitable manner of attempting to recover all the costs of providing telephone service to Glacier National Park.” (Exhibit U and Commission records)

24. That the Complainant conceded in its most recent letter of complaint that the nine-month minimum provision was fair during the first ten (10) years the exchanges were operated in Glacier Park (Exhibit T).

### CONCLUSIONS

A. That Glacier Park is a National Park located in a remote and mountainous portion of Montana, and is open and used by tourists only during the summer.

B. That in the creation of the three telephone exchanges serving Glacier Park the National Park Service of the Department of Interior and the Complainant’s predecessor, Glacier Park Company, agreed to a nine-month minimum contract period per calendar year with respect to local exchange rates.

C. That by the offer, as stated in Finding of Fact Number 15, the telephone company offered administrative service only, or expanded service, for local exchange.

D. That the gross annual local exchange revenue now derived by Respondent



Telephone Company in the three exchanges in Glacier Park does not cover its investment as to local exchange service.

E. That the nine-month minimum provision and the limitation upon suspension is fair and equitable and is not discriminatory.

F. That to remove the nine-month minimum or the limitation on suspension would allow those telephone users in Glacier Park who requested or now require telephone service in this remote and seasonal area to shift the costs thereof to subscribers in other non-seasonal exchanges in a discriminatory manner.

G. That the Respondent Telephone Company must maintain its central office buildings, central office equipment, switching equipment, trunking equipment and other facilities on a twelve (12) month basis even though there is a reduced use during off tourist season and the nine-month minimum requirement and the limitation upon suspension is a fair method of requiring those telephone users who have telephone service in a remote and seasonal area such as Glacier National Park to pay the direct costs thereof.

H. That the Complaint should be dismissed.

### ORDER

IT IS ORDERED by the Montana Public Service Commission that the nine-month minimum requirement applies and that such requirement and the limitation of suspension are fair, equitable and non-discriminatory; and that the Complainant's request for change in tariff be and the same is denied.

DONE IN OPEN SESSION in Helena, Montana, on June 10, 1976, by a 3-1 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

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GORDON E. BOLLINGER, Chairman

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P.J. GILFEATHER, Commissioner

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THOMAS G. MONAHAN, Commissioner

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JAMES R. SHEA, Commissioner  
Voting to dissent

ATTEST:

GAIL E. BEHAN  
Secretary

(Seal)

NOTICE:     You are entitled to judicial review of this Order. Judicial review may be obtained by filing within thirty (30) days from the service of this Order a petition for review pursuant to Section 82-4216, RCM 1947.